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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/553,268	10/12/2005	Werner Schroeder	L-407	6889

7590 11/03/2006  
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EXAMINER

SHAH, SAMIR M

ART UNIT PAPER NUMBER

2856

DATE MAILED: 11/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/553,268	<b>Applicant(s)</b> SCHROEDER, WERNER	
	<b>Examiner</b> Samir M. Shah	<b>Art Unit</b> 2856	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 October 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 7 is/are rejected.
- 7) ☒ Claim(s) 2-6, 8 and 9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 October 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/12/2005</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Drawings***

1. Figure 2 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

2. The disclosure is objected to because of the following informalities:
- (a) On page 13, line 7, delete "errors supplied" and replace it with --errors are supplied--.

Appropriate correction is required.

### ***Claim Objections***

3. Claims 5, 7 and 8 are objected to because of the following informalities:
- (a) As to claim 5, line 4, delete "same measuring" and replace it with --same time measuring--.

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(b) As to claim 7, the claim recites the limitation "the resonator" in 5<sup>th</sup> line of the claim. There is insufficient antecedent basis for this limitation in the claim.

(c) As to claim 8, line 8, delete "being filtered by in each case one of the" and replace it with --being filtered, in each case, by one of the--.

Appropriate correction is required.

### ***Double Patenting***

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 1 and 7 provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 7 of copending Application No. 10/531,881 (henceforth "Schroeder '881"). Although the conflicting claims are not identical, they are not patentably distinct from each other because:

As to claims 1 and 7, Schroeder '881 discloses "a disturbance force applied... such that a change in the stimulation oscillation of the resonator is brought about" (claim 1 - Schroeder '881) or "a disturbance force... such that the stimulation oscillation of the resonator is modulated" (claim 7 - Schroeder '881) which implies that stimulation oscillation, which is "at least one natural oscillation of the resonator" (instant invention), is stimulated ("changed") and thus the changed/stimulated oscillation will differ "from the stimulating oscillation and from the read oscillation of the resonator" (instant invention). Moreover, Schroeder '881 discloses "a change in the read oscillation of the resonator, which is produced by a partial component of the disturbance force, is extracted from a read signal... as a measure of the zero-point error" (claim 1 - Schroeder '881) or "determines a disturbance component which is contained in a read signal... produced by a partial component of the disturbance force, as a measure of the zero-point error" (claim 7 - Schroeder '881). However, since the "partial component of the disturbance force" (Schroeder '881) causes "stimulation of at least one natural oscillation" (instant invention), it is obvious that such a change in the read signal would have resulted from the "stimulation of at least one natural oscillation" (instant invention). Also, it is obvious that "zero-point error" corresponds to zero error in the instant invention. Moreover, Schroeder '881 does not expressly claim a plurality of "disturbance forces" (instant invention) but it would be obvious to one of ordinary skill in the art to use more than just one "disturbance force" (Schroeder '881) in order to improve the accuracy of the results (values for zero error).

6. This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### ***Allowable Subject Matter***

7. Claims 2-6, 8 and 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

8. The prior art made of record and not relied upon, cited in the attached 892 form, is considered pertinent to applicant's disclosure.

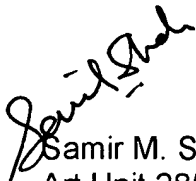
Reference Wirth (UK Patent Application GB 2 379 022 A) discloses a similar invention, entitled "[m]ethod of error testing a sensor", comprising the steps of "disturbing detection of the magnitude by the sensor, evaluating an output signal of the sensor provided as a result of the disturbance...ascertaining...the effect of the disturbance on the signal and processing the signal...to eliminate change in the signal caused by the disturbance", the apparatus including sensor (1), sensor signal receiving device (2), ascertaining device (4) and error recognition device (6).


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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Samir M. Shah whose telephone number is (571) 272-2671. The examiner can normally be reached on Monday-Friday 9:30 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Samir M. Shah  
Art Unit 2856  
10/19/2006

  
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